

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 3:15cr00067HTW-FKB-1

IRB BENJAMIN

SENTENCING HEARING

BEFORE THE HONORABLE HENRY T. WINGATE
UNITED STATES DISTRICT JUDGE
MARCH 3, 2017
JACKSON, MISSISSIPPI

APPEARANCES:

FOR THE GOVERNMENT: MR. DARREN LAMARCA

FOR THE DEFENDANT: MR. JOSEPH HOLLOMON

REPORTED BY: CHERIE GALLASPY BOND
Registered Merit Reporter
Mississippi CSR #1012

501 E. Court Street, Ste. 2.500
Jackson, Mississippi 39201
(601) 608-4186

1 THE COURT: Call your case, please.

2 MR. LaMARCA: Your Honor, the matter before the court
3 is *United States v. Irb Benjamin*. This is criminal number
4 3:15CR67. Mr. Benjamin is present with his attorney, Joe
5 Hollomon, Your Honor, and is present for sentencing pursuant to
6 a plea of guilty to Count 2 of the indictment.

7 THE COURT: All right. And good morning to you,
8 Mr. Hollomon.

9 MR. HOLLOMON: Good morning, Your Honor.

10 THE COURT: And good morning to you, Mr. Benjamin.

11 THE DEFENDANT: Good morning, Judge. How are you this
12 morning?

13 THE COURT: All right. Mr. Hollomon, has your client
14 and you reviewed the presentence investigation report?

15 MR. HOLLOMON: We have, Your Honor.

16 THE COURT: Do you have any objections to the material
17 contained within that report?

18 MR. HOLLOMON: Your Honor, we did have objections
19 which we have been able to resolve. And at this time I think
20 the amended presentence investigative report submitted by
21 Ms. Harrell is accurate.

22 THE COURT: And, Mr. Benjamin, do you agree with that
23 assessment?

24 THE DEFENDANT: Yes, sir, I do.

25 THE COURT: And, Mr. Hollomon, do you have any

1 evidence that you wish to submit on this matter of sentencing?

2 MR. HOLLomon: Your Honor, I have no evidence to offer
3 this morning. We did submit to the court previously character
4 letters that were submitted on behalf of Mr. Benjamin as well
5 as a booklet put together showing what we consider to be the
6 effectiveness of the drug and alcohol program -- programs that
7 he ran for MDOC, and we have submitted that to the court
8 earlier. Mr. Benjamin did not desire to bring all those people
9 in and have them testify, and so we submitted those to the
10 court in advance.

11 THE COURT: All right. Then let's talk first about
12 the letters.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: I will just give the names of the persons
15 who submitted letters. You have submitted to me a notebook
16 with laminated pages.

17 THE DEFENDANT: Right, yes, sir.

18 THE COURT: All right. And then I have a letter from
19 Martha Benjamin. I have a -- the next entry here are a number
20 of pictures of grandchildren and children, and it's two pages
21 worth. I have that here. And then following that, I have a
22 letter from David Benjamin, and he's the oldest son of the
23 defendant.

24 THE DEFENDANT: That's correct.

25 THE COURT: And then I have a letter from Donna L.

1 Benjamin, and she is married to his son --

2 THE DEFENDANT: That's correct.

3 THE COURT: -- David. And they have been married for
4 14 years. And then that letter is in two pages -- well, one
5 page. Then the next letter is from Stacy Benjamin Bullard, and
6 she is an elementary schoolteacher in the Alcorn School
7 District, and she's married to Brian Bullard, and the couple
8 has two children.

9 THE DEFENDANT: That's correct.

10 THE COURT: And then there's a letter from Brian
11 Bullard, and he's a 12-year city letter carrier for the United
12 States Postal Service in Booneville, Mississippi, and he's been
13 married to his wife for 20 years.

14 Then there's Holly B. Jackson who's employed with the
15 Alcorn School District as a school counselor, and she has a
16 bachelor's degree in psychology and sociology, a master's
17 degree in counseling, and educational specialist degree in
18 school counseling, and she has written a letter in support of
19 her father.

20 And then there is Burton Benjamin, and he's the
21 youngest child of the defendant, and he has submitted a letter
22 in that respect, a short letter.

23 And there's a letter from a Jim -- is this Tom --

24 THE DEFENDANT: Tomlinson.

25 THE COURT: Tomlinson?

1 THE DEFENDANT: Tomlinson, yes, sir.

2 THE COURT: And he is a stepson of the defendant.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: The defendant was previously married and
5 had, I think, four children to his first marriage and then
6 thereafter he remarried, and he remarried into a family with
7 this now wife and her children.

8 THE DEFENDANT: That's correct.

9 THE COURT: So he has both biological offspring and he
10 also has stepchildren. And so this is one of the stepchildren.

11 And then there's a letter from Cindy Eubanks, and she
12 too is a stepdaughter, and she predictably writes great things
13 about him.

14 Then there's a letter from Nellie Benjamin Wren
15 W-R-E-N who is the brother of the defendant.

16 THE DEFENDANT: Sister.

17 THE COURT: Excuse me. I said brother, but I meant
18 sister. Who is the sister of the defendant.

19 Then there is Smith Benjamin, and he is a brother of
20 the defendant, and he has submitted a short letter.

21 And then there is a sister, Molly Forsythe
22 F-O-R-S-Y-T-H-E who has written a letter. And as I said, she
23 is a sister.

24 And then there's a letter from a Jerry Wayne Benjamin
25 who is one of the 13 children of the parents of this defendant,

1 and he has written a letter.

2 Then there is Grace Gunter, G-U-N-T-E-R, who writes
3 that she is one of four sisters to the defendant.

4 And then there's a letter from Larry Benjamin, who is
5 a nephew of the defendant, and that letter is also laminated.

6 And then there's another nephew -- excuse me. There's
7 another niece, Felicia Morris, who has written a letter, and
8 Cynthia M. Caldwell and -- who says that, "Martha Benjamin is
9 my daughter and Irb Benjamin my son-in-law." And that person
10 has written a letter.

11 And then there's a letter from K.C. Caldwell Grist.
12 Caldwell is C-A-L-D-W-E-L-L and Grist is G-R-I-S-T of Tupelo,
13 Mississippi. And he says, "I have known Irb Benjamin since
14 1987 when he served in the Mississippi State Senate, and I was
15 a young staffer for Governor Ray Mabus. Since that time I have
16 come to know Irb as a loyal friend, trusted mentor, and even
17 brother-in-law." So then he says other kind words in the other
18 three paragraphs of his letter.

19 That concludes the family session -- section of this
20 notebook, which contains letters from the family. And then the
21 next section is a section which is entitled
22 "Business/Professional." And in this section there are letters
23 from persons or businesses or persons affiliated with
24 businesses, associated with business and professional matters.
25 The first letter is written by a Tommy Irwin I-R-W-I-N of

1 Corinth, Mississippi. And he just says that he was born in
2 Corinth, that he left for a number of years and returned to
3 Corinth and was elected as mayor of the city of Corinth. He
4 then in the next four or five lines provides some words of
5 praise for the personality of the defendant.

6 He says, "I have known him personally as a fellow
7 resident of Alcorn County. In all of my dealings with Irb, I
8 found him to be straightforward. I do not believe he ever told
9 me anything on which I could not depend nor did he ever mislead
10 me about any matter. He appeared in his dealings with me to be
11 a fair and personable individual," and that he hopes that the
12 letter will be of some benefit.

13 Then there's a letter from George looks like
14 Brumfield.

15 THE DEFENDANT: That's correct.

16 THE COURT: Retired superintendent of Brookhaven
17 Public Schools, where he served from 1981 to 1989. And he
18 reflects that he was a close friend of the defendant while he
19 was chairman of the education committee for the Mississippi
20 Senate. He talks about the legislation that Mr. Benjamin
21 helped pass called the Education Reform Act of 1982 which
22 greatly helped the public schools of Mississippi. And he
23 attests to Mr. Benjamin's honesty and trustworthiness.

24 Then there's a letter from a Robert L. Robertson who
25 retired from state government in February of 2012. He was

1 executive director of six statewide agencies, a university
2 professor, vice president of a university and deputy director
3 of IHL. And he speaks about his history with the defendant,
4 how he met him back in 1991 when this defendant was a member of
5 the legislature and how they have become friends and have
6 remained such.

7 And then he also talks how he at some point had worked
8 with Mr. Benjamin while he working in the Senate on various
9 matters concerning lobbyist concerns. He said, "He never asked
10 me for any pay or any favor for any and all of his good help.
11 He was also pleasant, kind, and respectful to me and my staff.
12 When he lost his Senate seat and had a job, I offered to pay
13 him \$2,000 per month for January, February, and March to lobby
14 for MDOT. He would not take the contract but continued helping
15 with our legislative needs. I know little about his current
16 problem, but he was always kind, fair, and honest in all
17 interactions with me and my staff." That's Robert L. Robinson.

18 Then there's a letter from a Joe Caldwell, and he says
19 that the defendant has been a close family member, close --
20 close family friend for many years, that he's known him since
21 the defendant taught in high school and -- taught at Kossuth
22 school, not necessarily high school, and knew him while he was
23 a senator for the state of Mississippi, that he's always been
24 an upstanding citizen, a valuable asset to Alcorn County and
25 the state of Mississippi.

1 And there's a next letter from Senator Tommy A.
2 Gollott, G-O-L-L-O-T-T, that he was a roommate of the defendant
3 during the years he was in the legislature. He says, "He was a
4 good, honest person. He never refused to help any and all his
5 constituents. Whether it was a health issue, retirement issue,
6 hospitalization issue or whatever, he was always there for his
7 constituents. He helped in any way that he could."

8 And he said that he was honored and is honored to call
9 him friend. This is from Senator Tommy A. Gollott, Fiftieth
10 District, Harrison County.

11 Then there is a letter here from Joe McRaney, a former
12 county administrator in Rankin and Lauderdale Counties who
13 currently serves as comptroller in Holmes County. He says that
14 he has been a friend of the defendant for the past 20 years.
15 He's always dealt with him in the counties that he represents
16 in an upright and honest manner, identifying many cost-cutting
17 measures to save county government thousands of dollars in jail
18 operation costs. He says that he's aware of these events that
19 have -- that regard the defendant's guilty plea and he says
20 that he truly believes that this defendant has great -- has
21 already suffered extensively for his actions, that he's lost
22 credibility in the public's eye. "I believe that an extended
23 prison term will serve as a tremendous hardship for his family.
24 I would ask for you to grant a sentence of probation or at
25 least the lowest possible sentence. I understand you receive a

1 lot of letters prior to sentencing an individual, and you have
2 a heavy task before you. My prayer is that you look upon this
3 particular case with leniency." Again that's -- this is from
4 Joe McRaney, former county administrator in Rankin and
5 Lauderdale Counties and currently the comptroller in Holmes
6 County, Mississippi.

7 The next letter is from George Flaggs, Jr., mayor of
8 the city of Vicksburg. And the mayor writes that he's sending
9 a character reference letter for the defendant whom he's known
10 for many years and have had numerous opportunities to greet and
11 have contact with. He mentions his strong family, strong
12 support system from that family, that he's always held this
13 defendant in the highest regard and considered him an honest
14 person, that he's aware of the issues before the court but he
15 implores the court to take leniency on him in any way in which
16 the court is enable to do, that he's learned valuable lessons
17 from his past mistakes. He also attests to his remorse and his
18 understanding, that is the defendant's, of the importance of
19 taking responsibility for his actions and behaviors. And he
20 says, "Through his mistakes, I have always known Irb to be an
21 individual of integrity and high character," and he asks the
22 court to provide any consideration to the defendant. Again
23 this is from Mayor George Flaggs, City of Vicksburg.

24 Then there's a letter from Nevin N-E-V-I-N Sledge
25 S-L-E-D-G-E, and this person is from Cleveland, Mississippi.

1 He serves as a state senator from Bolivar County, and said he
2 served from 1984 until 1992, and that during that time period
3 that he got along well with the defendant. In fact, he
4 describes it as having hit it off with Benjamin. "During those
5 nine years in the senate, Irb was my best friend. I found him
6 to be totally honest, hard working, and a dedicated member of
7 the senate. I valued his experience and his opinion. No doubt
8 he was committed to helping the citizens of the state of
9 Mississippi. For a number of years, he was the chairman of the
10 education committee, and he literally worked day and night to
11 improve the public education system for the children of this
12 state."

13 The writer goes on to say, "He was a marine in World
14 War II, and you get to know the character of your close friends
15 and buddies in the Marine Corps. I was so impressed with
16 Benjamin's honesty, intelligence, and judgment that after a
17 period of time I consider Benjamin's friendship equal to those
18 friendships forged during the war. He and his wife Martha are
19 great people, and I am so sorry that he somehow got himself
20 into this troubling situation. Nevertheless, I still consider
21 him a friend. He is a good man."

22 The next letter is from Warden Derek Mingo, spelled
23 M-I-N-G-O. He's the Warden at Marion/Walthal Correctional
24 Facility. He says, "I've had a lot of interaction with
25 Mr. Benjamin. I have known him for more than 15 years and have

1 valued his advice and cooperation in helping the facility to
2 gain and maintain financial stability." And he says that,
3 "While operating in his position as the ACA
4 director/coordinator for our facility, Mr. Benjamin has helped
5 us to meet the mandatory criteria set forth by the American
6 Correctional Association to receive accreditation from its
7 commission." So then he calls the defendant a respectful
8 leader, held in high regard, and he asked me to find favor in
9 Mr. Benjamin.

10 The next letter is a former sheriff of Carroll County,
11 Mississippi, who served for two terms. During this period of
12 time, the writer states that, "Mr. Benjamin served as our jail
13 consultant for the Carroll/Montgomery Regional Correctional
14 Facility in Vaiden, Mississippi." And he says that, "As
15 sheriff, I was the chief correctional officer of the facility."
16 He's says that during this time period he got to know the
17 defendant and his wife through their various working
18 relationships and there was never a time where -- there was
19 never a time when the writer called on Mr. Benjamin that he did
20 not help with any problem and where he did not provide the
21 necessary help or information that was needed. And then he
22 says he was always ready to help in any way he could. He was
23 always fair, professional, and very knowledgeable in his job as
24 consultant. "With his guidance, the facility went through two
25 ACA, that is American Correctional Association, audits

1 receiving perfect scores on all standards required." And then
2 he again is pleased to have had the defendant working in that
3 capacity.

4 The next person who writes a letter is Barbara Ware,
5 W-A-R-E, who was hired by the defendant in February of 2012 to
6 be the project coordinator of the Alcorn County CWC New
7 Intensive Drug Treatment Program in Corinth, Mississippi. And
8 this writer also has glowing things to say about the defendant
9 and has set out in some detail some of the charges, some of the
10 obligations that the facility had. And she provided this to
11 show the tasks that were required of the facility and to
12 conclude that the defendant did a wonderful job in how to
13 perform his task.

14 Now, I have some more letters to go through, and I
15 would invite the defendant and his lawyer to have a seat so
16 that you all don't have to stand there.

17 MR. HOLLOMON: Thank you, Your Honor.

18 THE COURT: That last letter, as I stated, was from
19 Barbara Ware, W-A-R-E.

20 The next letter is from Fred Guenther G-U-E-N-T-H-E-R,
21 who signs his name with a J.D. and the CAT. He identifies
22 himself as the alcohol and drug services coordinator of
23 Region 6 Community Mental Health Center d/b/a Life Help in
24 Greenwood, Mississippi, although Life Help officially serves 12
25 counties, mostly in the Mississippi Delta. And then he goes on

1 to tell what he knows about the defendant. He says that
2 Mr. Benjamin has never had any connection with Life Help but
3 the letter describes the writer's own relationship with
4 Mr. Benjamin, and "It's with sadness and regret that I even
5 write it. I can barely, barely believe this letter is
6 necessary."

7 He states how he met Mr. Benjamin 11 years ago when
8 their paths crossed at the Grenada County Jail and Mr. Benjamin
9 thereafter was retained as a consultant for Mississippi
10 Corrections management. And the writer says he designed
11 that -- that the writer designed and staffed two corrections
12 related substance youth disorder treatment programs and he and
13 the defendant became great friends, and he is -- he got a
14 chance to know him, to learn his personality, his character,
15 and he is now quite disturbed that the defendant has been
16 involved in any kind of criminal offense. And, in fact, he
17 says it's very close -- "It is very close to unbelievable that
18 Mr. Benjamin has been involved in any kind of criminal offense,
19 no matter what it might be. The Irb Benjamin I experienced,
20 whom I respect, with whom I became a friend, knew everything
21 about the design, construction, and management of a
22 correctional facility," and that he cared about the buildings,
23 cared about the inmates, et cetera. So he implores the court
24 to give this defendant a chance at atonement and possible
25 future success and treatment and he concludes by asking the

1 court to take all of this into account.

2 The next letter is a character and reference letter in
3 support of the defendant written by a Kevin Williams, Sr.,
4 Sheriff, Bolivar County. And he has had a professional
5 relationship with the defendant over the course of the last
6 five years, that defendant has always been courteous, helpful
7 and professional, not to mention fair. So then he writes this
8 letter in support of him, and he met him through the -- he says
9 that "I am currently serving my second term as sheriff of
10 Bolivar County. Upon taking office, Mississippi Correctional
11 Management began serving as the American Correctional
12 Association Consultant for Bolivar County Regional Correctional
13 Facility," and that the defendant was one of the members of the
14 consultant team that worked with that facility to prepare for
15 the ACA's assessment. That's Kevin Williams, Sr., sheriff of
16 Bolivar County.

17 Then there's a letter from Dr. William W. Cannon,
18 who's a retired state senator from Lowndes County, Mississippi,
19 that's L-O-W-N-D-E-S and currently who is practicing veterinary
20 medicine in Columbus, Mississippi. He is currently a board
21 member of the Mississippi Prison Industries Board elected to
22 the legislature at the same time that the defendant was elected
23 in 1976, and the two of them have remained friends since his
24 retirement from serving in the state legislature. He says that
25 the defendant is a Christian and regularly supports his church,

1 loves his family, involved with his children, grandchildren in
2 ways to help them be good citizens and that his dealings with
3 the defendant were always above reproach, that the defendant
4 was always fair making decisions for the citizens of
5 Mississippi and he commends him to me.

6 The next letter is from Randy Hodges of Grenada,
7 Mississippi, and the president of MLM -- MCM, I'm sorry,
8 Mississippi Correctional Management, and he worked for 32 years
9 with the Mississippi Department of Human Services, retired as
10 regional director of child support enforcement in October of
11 2010. And he says at the time he retired that he was
12 supervised by this defendant's wife, Martha, and it was through
13 Martha that this writer met the defendant in 2009. And that
14 after the writer retired from MDHS, he went to work for Irb,
15 that is the defendant, at MCM. His primary responsibilities
16 were to assist correctional facilities in obtaining and
17 maintaining ACA accreditation, and their facilities received
18 100 percent compliance. And then he says that in 2015 the
19 defendant stepped down as president of MCM and appointed him,
20 the writer, as president. Again the writer is Randy Hodges.

21 And he says glowing things about the defendant in his
22 letter, and he mentions family commitments and loyalty and the
23 bonds that the families have with each other, and then he gives
24 some examples of the caring and generous personality and
25 commitment of this defendant. He says that, "One night we were

1 having some really bad cold weather. When the defendant found
2 out I didn't have electricity, he told me to take my wife to a
3 motel and he would pay for it. One time I drove to south
4 Mississippi to work. When I got there, I realized I had left
5 my money and credit cards at home. I was four hours from home
6 and had no way to buy gas, food, or pay for a motel. I called
7 the defendant, and he drove two and one half hours to bring me
8 \$500. I told him \$200 was all I needed. He insisted I keep
9 the \$500 just in case."

10 Then he says, "I also know that he has helped out one
11 of our part-time employees when she was going through some
12 difficult times from a divorce and having financial problems."
13 So he concludes that this defendant is a God-fearing Christian
14 man whom he would -- for whom the writer would do anything, and
15 he says that he knows that he would do anything for the writer.

16 Then I have a letter from Jayna Peterson, J-A-Y-N-A
17 Peterson. And this is a former employee of Mississippi
18 Correctional Management, that she began working there in
19 November of 2012 after having retired a month earlier from the
20 Mississippi Department of Human Services. She says that
21 "Mr. Benjamin's wife was my supervisor at the time of my
22 retirement so I was already -- so I already knew of the
23 defendant." And then she says that she became fond of the
24 defendant after having worked side by side with him recognizing
25 his hard work and his commitment to his job and to his staff

1 and to the task at hand, that he's always available. And then
2 she says, "I only left MCM this past March when the facility
3 lost most of the contracts that were close to my home," and it
4 is becoming difficult for the writer to manage her work with
5 her husband's rental properties.

6 And she concludes by saying that she has no
7 reservations about writing this letter, that the defendant has
8 become a very dear friend, always fair and always encouraging.
9 "He appreciated my work and he let me know it. I could not
10 have asked for a better boss. I will always consider him to be
11 my friend, and my prayers are with him and his family and with
12 you in the decision that you must make."

13 The next letter is from a Dan Robinson. Dan Robinson
14 is the past president of Financial Service Centers of
15 Mississippi Association, and this defendant was a lobbyist for
16 that particular organization. That's Financial Service Centers
17 of Mississippi Association. The writer says, "Our association
18 was trying to get regulations passed, and I was young and had
19 no experience with such. I learned very quickly that Irb was
20 not your typical lobbyist. He was a peacemaker, kind, and
21 considerate. He did not try to, quote, unquote defeat our
22 enemies on the legislation. His way was to get us to
23 understand them and to get them to understand us."

24 So then the writer, that is Mr. Robinson, says that he
25 was president of that association for almost 20 years, that

1 during this time period the defendant was the lobbyist for the
2 organization and never once did he ever suggest anything that
3 even had a resemblance of impropriety, not once. "In fact, he
4 often counseled me to become aware of questionable politics
5 that some of the elected official may ask for or seek." So
6 then he says that he has maintained his high -- his valued
7 professional relationship with the defendant since, "He's the
8 kind of man that you respect and admire and wish you could be,
9 quiet man in a crowd but a loud voice of wisdom and reason
10 concerning things that truly matter. Always very Christ like
11 with words of encouragement, obvious love in his heart and a
12 big smile on his face. I would not hesitate to call him right
13 now to ask for his advice on any situation."

14 This writer acknowledges that he only has limited
15 information about this matter. He says, "Of course, the
16 limited information I have read concerning Irb and the
17 indictment deeply saddens my heart for him and his family. And
18 anyone who truly knows Irb feels the same. In my opinion, if
19 Irb is guilty of any wrongdoing, it is because the one in
20 position of authority said, 'this is the way it has to be for
21 to you do your business.' Not because Irb suggested it. It's
22 a shame and those in position of powers abuse those powers."

23 So he asks that, "I pray that you would hold
24 accountable those who dictate self-serving policies by their
25 positions of authority, and I pray you will be lenient on the

1 defendant Irb or anyone else who committed acts such as this at
2 the risk of losing their businesses and income." He concludes
3 that, "This defendant is a good man whom he has much respect
4 and love regardless of the outcome of this case." He says, "I
5 would be willing to stand in person anywhere at any time on
6 behalf the defendant." This is again a letter of Dan Robinson,
7 past president FCSM, which is Financial Service Center of
8 Mississippi Association.

9 Then I have a letter from Joel Yelverton
10 Y-E-L-V-E-R-T-O-N. First name Joel, J-O-E-L, a local
11 consulting firm which represents a variety of clients,
12 including 26 railroads, a computer services company, a
13 municipality, and county tax assessors and collectors from all
14 82 counties. So he calls the defendant, "a dear friend whom he
15 has known for almost his entire 35-year career," first when the
16 defendant served as a state senator and later when he retired
17 from the senate and managed his own company. They are friends
18 to this day and that the defendant is fair, honest, loyal to
19 his family, friends, and business associates.

20 He points out that in 2009, he, that is Mr. Yelverton,
21 started his own consulting firm and he was struggling at the
22 time. Then he saw the defendant at the capitol who told him
23 that he had heard that he, Mr. Yelverton, was on his own and
24 that he then, after being invited to come by the defendant's
25 office, took him up on that, went by his office, and he --

1 well, he said he was invited to come by the office so then he
2 thought he needed to get some directions to his office. When
3 the defendant asked him where his office was located, that is,
4 where Mr. Yelverton's office was located, Mr. Yelverton stated
5 that his office was located at his kitchen table and out of the
6 back seat of his car. And so then the defendant pointed to a
7 vacant desk in his office and informed Mr. Yelverton that he
8 would be honored to have him share his space rent free. He
9 just wanted to show kindness and support to a friend, and that
10 is the type of person that is the defendant.

11 So the next paragraph, Mr. Yelverton says, "I do not
12 know any details about the case. However, from my direct
13 knowledge of his selfless character, I surmise that Irb's
14 actions were most likely rooted in his concern for the clients
15 he served and/or the people dependent on him for employment.
16 In summary, I cannot stress to you enough that my personal
17 longstanding friendship with Irb has always shown him to be
18 fine in character, loyal and humble. He's a good soul." And
19 he asked me to take all of this into consideration.

20 The final category is a number of letters from persons
21 who are deemed to be friends, and the first is from New Birth
22 Missionary Baptist Church, and that's in Gore Springs,
23 Mississippi. Reverend Clarence Buchanan is the pastor.
24 Brother Jimmy Willis is the chairman of deacons. That's on the
25 letterhead. And the letter is written on behalf of the

1 membership at New Birth Missionary Baptist Church, Gore
2 Springs, Mississippi.

3 And it says, "We offer this letter for the court's
4 consideration." And the writer, who did not sign the letter,
5 says that, "The defendant became involved in the Grenada County
6 Jail Outreach Program that the church initiated to cater to
7 inmates at the Grenada County Jail, and he far exceeded
8 expectations in assisting the church with the church's goal
9 conveying a positive message to those who are incarcerated, and
10 he would frequently aid the congregation in soliciting and
11 fundraising efforts, was always concerned about the well-being
12 of others. Through the years, he became involved with helping
13 our church not only as a whole but also by assisting specific
14 members of the church community when they experienced personal
15 burdens." Then he asked the court to consider mercy and
16 leniency.

17 Now, this letter is not signed. I read off the name
18 of the pastor on the letterhead, and I read off the name of the
19 chairman of deacons, that is Pastor -- that is, Brother Jimmy
20 Willis who is chairman of deacons and Reverend Clarence
21 Buchanan, who's the pastor. Mr. Hollomon, do you know who
22 wrote the letter?

23 MR. HOLLOMON: Your Honor, I'm told that Reverend
24 Buchanan, the pastor, is the author of this letter.

25 THE COURT: All right. Thank you. Next letter is

1 from Patty Horton, H-O-R-T-O-N, who says she's known the
2 defendant since 1982 when he was a state senator. And she says
3 very kind things about him too and that she's stayed personal
4 friends with him, his wife and family, over the years since he
5 left the senate. "During that time I've only known him to be
6 helpful and a fair businessman and a friend," and he asked me
7 to consider the humble and caring person that the defendant is.

8 The next letter is from a Pam Prestage
9 P-R-E-S-T-A-G-E. And the first name is Pam P-A-M. And she
10 calls the defendant her good friend, and she says that she met
11 him when they were dating so this is how I came to know him.
12 "As I've known him for approximately 20 years, I've never known
13 him to be anything but fair, kind, and generous. He's willing
14 to listen to both sides of an issue and then make the best
15 choice. Family and friends are very important to him. He
16 would do anything for anyone. He is of impeccable character
17 and is a man of integrity. He's impartial. He treats everyone
18 with dignity and respect. He has lived his life serving others
19 and being available for those who may need them." And he
20 says -- and writer says that she has absolutely no reservations
21 about what she has said in her letter because this is the
22 honorable man that she knows. She asked me to take all of that
23 into account as to his character when the court sentences the
24 defendant.

25 The next letter is from James W. Dye D-Y-E. And this

1 person has a very short letter that says, "I'm a resident of
2 Alcorn County, and I know his brother for 25 years and members
3 of his family and would like a heartfelt request of mercy from
4 the court on behalf of the Benjamin family."

5 The next letter is the from a Vicki Dodd, V-I-C-K-I L.
6 D-O-D-D, and she says that the defendant is her friend. She's
7 known him since 1999 when he was instrumental in obtaining
8 regional correctional facility for Carroll and Montgomery
9 counties. "I was the office manager at time, and Irb was our
10 key consultant. What began as a professional relationship
11 progressed over the years to a dear friendship with Irb and his
12 wife, Martha."

13 And she says she's a single parent who has encountered
14 her various ups and downs over the years and during her life
15 and that this defendant -- this defendant has been a constant
16 source for her and three children when she had absolutely no
17 one else to which to turn -- to whom to turn. "He and his
18 wife, Martha, have been like family to me. And I sometimes ask
19 myself why were they so kind to me, and why did Irb always,
20 always have my back when I needed help? The answer is simple
21 to me. God placed Irb in my life. He knew Irb was one of his
22 compassionate angels he put on this earth to help others. Irb
23 has no doubt fulfilled what God sent him here to do, but he has
24 so much more left to do."

25 So the letter concludes in the last paragraph saying

1 that this defendant is a wonderful man with wonderful family
2 and that he is someone who is entitled to leniency, that the
3 writer knows that the court has a difficult job, but she truly
4 wants the court to know what kind of person this defendant is.

5 The next letter is Talmadge T-A-L-M-A-D-G-E "Tee" in
6 quotations T-E-E Golding G-O-L-D-I-N-G, former Montgomery
7 County Chancery Clerk for 28 years. "It was during one of my
8 teen -- one of my terms in office that I met Irb Benjamin.
9 Montgomery County was trying to find a way to build a jail due
10 to our jail being closed due to not being able to obtain
11 liability insurance. We needed a jail in the worst way as the
12 cities of Duck Hill, Kilmichael, Winona, and Vaiden always use
13 our county jail." So the writer speaks about the involvement
14 of this defendant in making that become a reality and says that
15 in all the writer's dealings with the defendant that he was
16 fair, knowledgeable, and efficient. And so the writer says,
17 "In closing, I would like to let you know that during my 28
18 years as an elected official I had, many, many opportunities to
19 write letters on behalf of people, but I have written less than
20 10 during those years." That is, during those 28 years. "I am
21 thanking you in advance for all your consideration in this
22 matter."

23 The next letter is from a William M. Billingsley who
24 is the retired health care executive -- who is a retired health
25 care executive. And the person has owned businesses throughout

1 Mississippi for the past 21 years and saying that the writer
2 met the defendant through his father-in-law, Senator Bunkey
3 Huggins, from Greenwood, who was Mr. Benjamin's desk mate and
4 dear friend when they served in the state Senate. "Sadly
5 senator Huggins passed away in 2006, but my friendship with and
6 affection for Mr. Benjamin has remained strong.

7 The person has had no business dealings with the
8 defendant and the relationship is purely personal, the writer
9 having grown to know the defendant as a fair and reasonable
10 man. And the person also talks about his commitment to his
11 family, his children, his entire family, and he's also been a
12 dedicated public servant who has tried his best to help the
13 people of Mississippi. He has much more to offer. So he asked
14 me to take all that into account with regard to sentencing.

15 These are the letters that the court has received, and
16 they're in a notebook that is styled in bold letters "Prepared
17 for Honorable Henry T. Wingate, United States District Court
18 Judge, Southern District Mississippi, Prepared on Behalf of Irb
19 Benjamin." And there's a picture of the defendant, and under
20 that is, "Prepared by Martha Benjamin." I will make this a
21 part of the record unless the prosecution is offering some
22 well-crafted objections. Does the prosecution have any
23 objections?

24 MR. LaMARCA: No, Your Honor.

25 THE COURT: I will accept the book into evidence.

1 (Exhibit D-1 marked)

2 THE COURT: Now, the other book that I have in front
3 me, I will not go through all of this. I have looked through
4 the book, and I see tabs and also have looked through the book
5 to gain an understanding of what is involved in this large
6 notebook. And the notebook has some interesting -- well, the
7 whole notebook is interesting, but there are some things that I
8 find of particular interest. For instance, there's a
9 recidivism report in this book, and it's on -- it's under the
10 heading of "MCM Audit Scores." And I'm always interested in
11 recidivism reports.

12 But anyway, there are a number of pictures here,
13 graduates in various years and letters submitted by these
14 particular people. Well, instead of poking around, let me just
15 tell you what this book does. The first page talks about the
16 purpose of the book. It is to show the quality of works and
17 results of the therapeutic alcohol and drug treatment program,
18 that shows these programs have been successful and meaningful
19 to the participants. And so that's the purpose of this
20 notebook. And this book was submitted to me back in February.
21 That's the date on the top. I don't think I got it back in
22 February. Did I get it in February?

23 MR. HOLLOMON: You did, Your Honor.

24 THE COURT: I thought I got it after that.

25 MR. HOLLOMON: I can't remember the exact date, but it

1 was February, Your Honor.

2 THE COURT: I was thinking I got it right after. But
3 okay. But the cover letter is February 24th, 2017. The first
4 tab is about Alcorn County graduation, and it has some colorful
5 pictures here. Therapeutic Alcohol and Drug Program, Alcorn
6 County Community Work Center.

7 The second page has a picture of Christopher Epps and
8 a picture of Mr. Benjamin, president, Mississippi Correctional
9 Management.

10 The next page has picture of Jerry Wilson -- excuse
11 me, Jerry Williams, MDOC deputy commissioner. And then next to
12 that is John Hopkins, MDOC Director of Treatment Programs Under
13 Special Treatment.

14 And then there's a picture of some of the instructors
15 in the program.

16 Thereafter are some certificates and a class
17 graduation and all the people who were there.

18 Anyway, there's a number pictures here of these
19 inmates who participated in the graduation celebration. I was
20 looking again for the photographer. Mr. Hollomon, who was the
21 photographer?

22 MR. HOLLOMON: Your Honor, Irb tells me that it was
23 one of his employees on the staff. Various employees at
24 various times just trying to memorialize the graduation
25 ceremonies and to demonstrate some of the good his program was

1 doing. So I'm not sure we can identify over a period of time
2 exactly who it was. But it was someone on his staff.

3 THE COURT: All right. He did a fine job of taking
4 these pictures. And some of the names in here are persons who
5 wrote a letter to the court. And then they have the graduates
6 of 2012, and there's a number of pages and comments from the
7 graduates where they speak about the things they liked about
8 the program, what the program has done for them, how they felt
9 about being in the program, et cetera. So that's throughout
10 the book.

11 Then over further, there are the words of "One Day at
12 a Time." And in the first part of the book, there's a picture
13 of the inmate who performed at the graduation singing that very
14 song, "One Day at a Time." So the words of "One Day at a Time
15 are here, you know, in the book. And, of course, we all know
16 the significance of "One Day at a Time" for those who are
17 trying to recover from alcohol and drug abuse.

18 Then there's a tab for Simpson County graduation, and
19 this occurred at October 2016, 2012. And it's a joint venture
20 by the Mississippi Department of Corrections, Christopher Epps,
21 Commissioner, Mississippi Correctional Management, Inc., Irb
22 Benjamin, President, and Simpson County CWC. And just as with
23 the section I dealt with earlier, there are pictures of the
24 commissioner, Christopher Epps, and Mr. Benjamin and special
25 appreciation to Jerry Williams, MDOC Deputy Commissioner;

1 Barbara Ware, program coordinator; Fred Guenther
2 G-U-E-N-T-H-E-R, program consultant; and John Hopkins, MDOC
3 director.

4 Then there's a program for the service of graduation,
5 and then these pictures are just like the pictures we saw
6 earlier, except they are pictures of a different ceremony.
7 There are a number of pictures that are well known -- well
8 provided. Then after that are the graduates of 2012 with
9 inmates holding up their certificates while they are in cap and
10 gown. And then each one -- most of them have written some
11 appreciation for the program in their own handwriting, and that
12 too is laminated just as it is in the prior section.

13 So this -- then we come to Simpson County Therapeutic
14 A & D, and it's by Clifford Triplett. And Clifford Triplett
15 also wrote a piece on the road to recovery. And thereafter are
16 some notations such as a story about footprints, and it is an
17 oft repeated story of a conversation wherein one discusses
18 Jesus eventually picking up a needed person and only having
19 two -- one footprint there at one point because the person
20 needed help.

21 Then there is the recidivism chart that I referred to
22 earlier, and I looked at this recidivist chart as soon as I got
23 the book, as soon as I saw it, because I'm interested in
24 recidivism. And, Mr. Hollomon, who compiled this study?

25 MR. HOLLOMON: Your Honor, this was provided my client

1 by MDOC.

2 THE COURT: Okay. All right. Thank you. The report
3 day is May 23, 2014. Then there's some compliance scores in
4 another section. And after that, there's a letter section
5 where persons wrote a letter to the defendant like Mr. Guenther
6 G-U-E-N-T-H-E-R. And then Barbara Ware whose name has come up
7 before. And it has the same information that she submitted to
8 me in a separate letter that I read earlier. And then at the
9 back is a full picture of her at the podium at one of the
10 graduation ceremonies.

11 Now, is there any objection to my court placing this
12 into evidence? From the prosecution?

13 MR. LaMARCA: Your Honor, I'd like to quickly scan to
14 make sure there's no personal identifying information in it
15 that may have to be redacted.

16 THE COURT: Could you complete that scan.

17 MR. LaMARCA: Yes, sir.

18 THE COURT: But contingent upon your notions about
19 personal data, the court will enter that book into evidence
20 subject to any corrections I need to be made to edit personal
21 information.

22 MR. LaMARCA: Yes, sir. Thank you.

23 (Exhibit D-2 marked)

24 THE COURT: Now, Mr. Hollomon, you can stand right
25 there. I have reviewed those two books and placed those two

1 books in evidence. Now, are there any other matters that you
2 wish to submit by way of documents?

3 MR. HOLLOMON: Your Honor, we have no other evidence
4 or documentary evidence to offer at this time in support of
5 Mr. Benjamin or related to the 3553 factors. We did file a
6 motion for a downward departure.

7 THE COURT: I was going to take that up in just a
8 moment. Stand there. Hold it.

9 MR. HOLLOMON: Yes, sir.

10 THE COURT: So you don't have any more evidentiary
11 materials?

12 MR. HOLLOMON: No, Your Honor.

13 THE COURT: And you don't have any more witnesses --

14 MR. HOLLOMON: No, Your Honor.

15 THE COURT: -- that you wish to call?

16 MR. HOLLOMON: No, sir.

17 THE COURT: All right. Thank you. I'll come right
18 back to you.

19 MR. HOLLOMON: Yes, sir.

20 THE COURT: Now, then, let me turn to the prosecution.
21 Let me interrupt you in looking through the book for those
22 personal -- for any personal information.

23 MR. LaMARCA: Yes, sir.

24 THE COURT: Do you have any evidence that you wish to
25 submit to the court by way of evidence? Excuse me. Do you

1 have any evidence you wish to submit to the court by way of
2 witnesses or documents?

3 MR. LaMARCA: I do not, Your Honor.

4 THE COURT: Okay. Thank you. Let me turn back to
5 you, Mr. Hollomon. You have a motion for downward departure.

6 MR. HOLLOMON: Yes, Your Honor.

7 THE COURT: All right. Now, talk to me about your
8 motion for a downward departure.

9 MR. HOLLOMON: Yes, Your Honor. Your Honor, we move
10 for a downward departure to ask the court to consider a
11 downward departure in this case pursuant to the United States
12 Sentencing Guidelines 5H1.1 and 5H1.4 based on the defendant's
13 age and health conditions.

14 THE COURT: Now --

15 MR. HOLLOMON: As reflected in the presentence
16 investigative report, Mr. Benjamin is now 70 years of age, and
17 he suffers from a number of chronic health issues. In 1999, he
18 was diagnosed with idiopathic pulmonary fibrosis which
19 adversely affected his lungs, and Irb was told at this time,
20 Your Honor, he really wasn't expected to survive that illness.
21 It causes the lung, as I understand it, to dry up. And it
22 seldom reverses itself.

23 In Irb's case, he attributes it not only to his
24 medical care but a lot of prayers from people. The condition
25 did ultimately reverse itself and his lungs regenerated,

1 although they are still affected. And he's affected today by
2 changes in -- particularly changes in temperature causes him to
3 feel the effects of it.

4 Then in August of 2012 he suffered an acute myocardial
5 infarction and underwent heart bypass surgery. He's continued
6 to have problems with heart palpitations and an irregular
7 heartbeat.

8 He also suffers, Your Honor, from diabetes, diabetic
9 kidney disease, chronic kidney dysfunction, hypertension, fatty
10 liver, sleep apnea, and gout. And a letter from his primary
11 care physician reflects that, which was included in the
12 presentence investigative report from Dr. Samuel Peeples, and
13 he terms those conditions serious and notes that this
14 combination of medical problems puts him at a very high risk
15 for complications and notes that it will -- his medical
16 conditions will require close and intensive followup.

17 We also, Your Honor -- he also I would state to the
18 court as reflected in the presentence investigative report is
19 on a number of medications which are all enumerated in there.
20 And I know the court has already seen that. I wouldn't
21 elaborate further.

22 But we also move, Your Honor, because of his age --
23 Mr. Benjamin is 70 years old, has lived his life honorably up
24 to this point. He's worked, paid taxes. He's served in the
25 state legislature and state senate. He helped promote and pass

1 important legislation related to education and to the state
2 highways which bettered this state for the citizens of this
3 state. And he is -- I think the overwhelming thing that I have
4 learned from Irb being around him for the past year and a half
5 is his humility.

6 He doesn't really want to boast about they these, and
7 I don't mean to boast this morning, but they are true. So he
8 has led a life of accomplishment and life he could be proud of
9 up until the time he met Chris Epps and this situation
10 developed. And for those reasons, both his age, his life of
11 accomplishment, and his chronic health issues, which are
12 serious at this point, we would ask the court to consider a
13 downward departure, Your Honor.

14 THE COURT: Now, Mr. Hollomon, as you stated, this
15 information about his health is contained within the
16 presentence investigation report. And the letters relative to
17 such from the doctors are also in the presentence investigation
18 report. There are two doctor letters that are included, and
19 there is a chart which sets out all of his ailments, the
20 medications that he takes as well as who the medical provider
21 was for the medication or is for those medications. And I've
22 seen all of those and they are set out here.

23 So on the first matter, that is, on the health matter
24 with regard to gout, the letter says this has improved on
25 treatment with medication. And then with regard to diabetes,

1 the letter says that inasmuch as he has placed himself on an
2 exercise regimen, that his -- he has chronic kidney disease but
3 his diabetes has done better or at least did better when he
4 wasn't as weighty as he later became because he gained
5 something like 30 pounds, I believe, in the last eight months.

6 And then he has -- I don't know if you mentioned sleep
7 apnea. Did you mention that?

8 MR. HOLLOMON: I did, Your Honor.

9 THE COURT: Okay. Because it says here he has a
10 history of borderline sleep apnea that I underlined and that at
11 times he has not gotten he's weight down. I underlined that
12 too, and that he was going to be on the verge of morbid
13 obesity. And all of this is hearing -- with the hypertension
14 and all of that, but my question is is usually on the downward
15 departure, we are talking about some factor that has not been
16 considered by the writers of the guidelines. So are you saying
17 that this matter of medication would be such a matter that is
18 generally outside of the consideration by the sentencing
19 guidelines?

20 MR. HOLLOMON: We do. Your Honor, we feel like his
21 conditions and his treatment combined with his age, weight
22 problems, and everything that he's dealing with, including the
23 lung problem, the pulmonary problem, and heart problem,
24 combined to take this situation outside the standard case and
25 to make it exceptional and one for which the court could

1 consider a downward departure.

2 THE COURT: But now you are aware that the Bureau of
3 Prisons has institutions that have attached hospitals.

4 MR. HOLLOMON: Yes, Your Honor, absolutely.

5 THE COURT: So then --

6 MR. HOLLOMON: That would be at the expense of the
7 federal government as opposed to my client being responsible
8 for his own health care himself and his insurance paying -- or
9 Medicare paying for that health care.

10 THE COURT: And I don't believe you can point to any
11 case citation which says that this health matter under these
12 circumstances would be a basis for a downward departure.

13 MR. HOLLOMON: Your Honor, the only case I would cite
14 to the court is a case that was here in the Southern District
15 of Mississippi before Judge Jordan in which a client of mine
16 who was somewhat older than Mr. Benjamin, the client's name was
17 Bill Gordon, had a number of chronic health issues very similar
18 to what Mr. Benjamin has and the judge in that case saw fit to
19 grant a downward departure. I think it was one level, Your
20 Honor, because of the chronic health issue my client was
21 suffering. It was very similar factually analogous to this
22 case with Mr. Benjamin.

23 THE COURT: All right. But do you have any other
24 authorities on it?

25 MR. HOLLOMON: No, Your Honor.

1 THE COURT: Okay. And I don't know all the
2 circumstances of that particular case.

3 MR. HOLLOMON: Yes, sir.

4 THE COURT: Because this case is not in front me.

5 MR. HOLLOMON: Right.

6 THE COURT: Maybe I would have done the same thing. I
7 do not know. Or maybe I would not have. But I can only say
8 that that case and its facts are not before me at present.

9 MR. HOLLOMON: We understand, Your Honor.

10 THE COURT: I do not have a grasp of what the facts
11 were in that particular case. Now, then, you also submitted to
12 the court that your client has had a long history of public
13 service. And do you have any cases which state that that is a
14 matter that should be the basis for a downward departure?

15 MR. HOLLOMON: I don't have the case law, Your Honor,
16 that says that specifically. But we feel like that is a factor
17 under 3553 for the court to consider in conjunction with the
18 possibility of a downward departure because of age and health.

19 THE COURT: Well, I agree it's a point that the court
20 could consider. But the court may, on the other hand,
21 determine that that factor should be considered within the
22 guideline range but not as a downward departure matter because
23 it would not be outside the heartland of the factors that were
24 taken into account when the guideline range was construed by
25 the sentencing commission.

1 MR. HOLLOMON: I agree with the court, Your Honor.

2 THE COURT: So then I would certainly take it into
3 account in determining where he should fall within the
4 guideline range. Now, was there a third consideration?

5 MR. HOLLOMON: No, Your Honor.

6 THE COURT: Those were the only two?

7 MR. HOLLOMON: Those are the only two, Your Honor.

8 THE COURT: Okay. Thank you.

9 MR. HOLLOMON: Thank you, Your Honor.

10 THE COURT: Let me turn to the prosecution. I've
11 discussed this with Mr. Hollomon, but do you have anything you
12 would like to add to this matter concerning a downward
13 departure?

14 MR. LaMARCA: Your Honor, the government stands by its
15 recommendation in the plea supplement, which is the lower 25
16 percent of the guideline range.

17 THE COURT: Now, the government had no objection to
18 this defendant being awarded an extra point for acceptance of
19 responsibility. Is that correct?

20 MR. LaMARCA: That's true.

21 THE COURT: Ordinarily a defendant gets either one
22 point, two points, three points. But in the plea agreement
23 that you have with the defendant, the government agreed to
24 recommend an additional one level for acceptance of
25 responsibility to make the total three points instead of two

1 points if the guideline points reached the level of 16 or
2 above.

3 MR. LaMARCA: Yes, Your Honor.

4 THE COURT: So then since this level is above 16 and
5 the probation officer then gave the extra point, that's
6 pursuant to your plea agreement. Is that correct?

7 MR. LaMARCA: Not only pursuant to the plea agreement,
8 but also pursuant to the guidelines themselves, Your Honor. He
9 did qualify under the guidelines for that additional point.

10 THE COURT: Okay. And with regard to the government's
11 position as to the guideline range, are you asking this court
12 to upward depart or downward depart?

13 MR. LaMARCA: Your Honor, we're asking the court to
14 sentence the defendant pursuant to our plea agreement to the
15 lower 25 percent of the guideline range.

16 THE COURT: So then by that recommendation you are
17 saying that you are not asking the court to consider sentencing
18 him under the statute?

19 MR. LaMARCA: No, sir. That is correct.

20 THE COURT: You're asking the court to sentence him
21 under the guideline range without any imposition of an upward
22 departure?

23 MR. LaMARCA: Your Honor, that is correct. We make
24 the recommendation of the lower 25 percent of that range.

25 THE COURT: All right. Thank you very much. Now,

1 Mr. Hollomon, you and your client approach the podium, please.

2 MR. HOLLOMON: Yes, Your Honor.

3 THE COURT: Now, Mr. Hollomon, I'll allow you to state
4 your understanding of the guideline range at this point, and
5 then I will turn to the prosecution and to the probation
6 officer to see if they agree with your understanding as -- with
7 what has been set out already as the guideline range.

8 Thank you, Your Honor. My understanding, Your Honor,
9 is the guideline range is based on an adjusted offense level of
10 27 and a criminal history category of 1 and that range would be
11 70 to 84 months.

12 THE COURT: Are you saying 84?

13 MR. HOLLOMON: 70 to 84 months, I believe, Your Honor.

14 THE COURT: I want you to look at that again.

15 MR. HOLLOMON: I'm sorry, Your Honor. It's 87.

16 THE COURT: Okay. 70 to 87 months.

17 MR. HOLLOMON: Yes, Your Honor.

18 THE COURT: All right. Continue.

19 MR. HOLLOMON: The lower 25 percent, Your Honor, I
20 believe would be 70 to 74.

21 THE COURT: Okay. Continue. Supervised release?

22 MR. HOLLOMON: Bear with me, Your Honor. A term of
23 supervised release, Your Honor, of not more than three years,
24 and the guideline provision would be for a class C felony 1 to
25 3 years under 5D1.2(a)(2).

1 THE COURT: Okay. And the fine range?

2 MR. HOLLOMON: The fine range, Your Honor, is from
3 12,500 to \$125,000.

4 THE COURT: Restitution is not applicable?

5 MR. HOLLOMON: No, Your Honor.

6 THE COURT: And then special assessment is \$100 to
7 Count 2.

8 MR. HOLLOMON: Yes, sir.

9 THE COURT: Let me turn to the prosecution. I wanted
10 Mr. Hollomon to tell the court his idea of the guideline range,
11 and he has done so so I could be sure that the defendant has
12 been advised as the court has calculated the guidelines. Do
13 you agree with what Mr. Hollomon had to say?

14 MR. LaMARCA: I do, Your Honor.

15 THE COURT: Okay. Thank you.

16 MR. LaMARCA: And there is the additional issue of
17 forfeiture.

18 THE COURT: Okay. Tell me about forfeiture.

19 MR. LaMARCA: Your Honor, the plea agreement contains
20 a provision that a money judgment would be entered in the
21 amount of \$260,782 which represents the net benefit of the AD&D
22 program for the three counties involved. I'm sorry. The two
23 counties, Alcorn and Simpson County, back in 2012.

24 THE COURT: Mr. Hollomon, what have you to say about
25 this forfeiture?

1 MR. HOLLOMON: Judge, that is contained within the
2 plea agreement we signed.

3 (Defendant and Counsel Conferred)

4 THE COURT: Mr. Hollomon, you have something to add on
5 that?

6 MR. HOLLOMON: No, Your Honor. I just wanted
7 clarification. Thank you.

8 THE COURT: Okay. And, Mr. LaMarca, you agree that
9 probation is not a factor here?

10 MR. LaMARCA: I do, Your Honor.

11 THE COURT: Okay. Let me turn to my probation
12 officer. Do you agree on these calculations?

13 PROBATION OFFICER: Yes, sir, I do.

14 THE COURT: Are there any points you'd like to add?

15 PROBATION OFFICER: No, Your Honor.

16 THE COURT: All right. Thank you. So then now I will
17 hear from the defendant if he wishes to make allocution. If he
18 is satisfied with his attorney making allocution, then I'll
19 hear from the attorney. Both can make allocution or neither
20 can make allocution. So, Mr. Hollomon, how would you like to
21 proceed?

22 MR. HOLLOMON: Your Honor, my client would like to
23 address the court first, and I would like to address the court
24 briefly.

25 THE COURT: All right. Mr. Benjamin, go ahead.

1 MR. HOLLOMON: Your Honor, I find myself in a very
2 humiliating and embarrassing situation at the age of 70, the
3 final years of my life. I'm so sorry that I've destroyed all
4 of the history and character that my family stood for. If you
5 read the criminal records of my family, you will find that it's
6 nonexistent.

7 I have no one to blame for this deal but myself. I'm
8 so sorry. I made a mistake, and I'm here to take
9 responsibility for it and express that to you, the court, and
10 move on. I'm sorry that -- I apologize to anyone that I have
11 offended in the process. And I regret it every day of my life.
12 So I'm truly sorry for what's happened. And thank you, Your
13 Honor.

14 THE COURT: Mr. Benjamin, there was a letter submitted
15 by one of your supporters -- more than one that was submitted
16 by your supporters that says that the writer could not
17 understand how you had been involved in this unless there had
18 been some pressure against you by other wrongdoers in this
19 matter.

20 At time you entered your plea of guilty, I discussed
21 some of these things with you. In fact, at the time you
22 entered your plea of guilty, I asked you about a comment or two
23 that I saw with regard to some statements attributed to Mr.
24 Epps. In the presentence investigation report here, I see
25 again some of those statements of matters where allegedly

1 Mr. Epps told you that you had to go along with these deals;
2 otherwise, he would shut down the program, especially where
3 your assistance in constructing a facility needed 300 bodies at
4 that facility and Mr. Epps controlled the number of persons who
5 could eventually be sent to that facility and that you
6 allegedly had a conversation with him where he made some
7 financial threats. Would you tell me about that?

8 THE DEFENDANT: Yes, sir, Your Honor. I've been
9 operating in the jail business since 1996 or -7. I never
10 encountered any problem. We built facilities at Chickasaw
11 County, we built facilities at Marion County and worked with
12 other facilities at Holmes and Jefferson.

13 When we got into the construction on the Alcorn,
14 Chickasaw, and Washington county facilities and we were about
15 completed with them and getting ready to start to populate
16 them, then the commissioner Epps came in and demanded money. I
17 kind of laughed him off to start with. I said, *You've got to*
18 *be kidding me.*

19 He said, *You can't run them without inmates. You just*
20 *bogged down.*

21 You had to put in under the contracts with the
22 contract -- all of my contracts were with the counties. I
23 didn't have a contract with Department of Corrections. But
24 they had to supply 80 percent inmates pay to the county in that
25 facilities once it's up and going. But in order to profit and

1 cash flow and do that, you had to go up to what the maximum was
2 becuase you had to pay the debt service on that extra
3 20 percent because you built the buildings for.

4 I found myself that I either had to walk away and
5 leave those counties to start up and go to operating something
6 that they didn't have a clue about or cooperate with Epps so he
7 would get the inmates and then I could hold true to my
8 contract. I was too committed. I wanted to make those county
9 projects be very successful.

10 We had worked for years on some of them. I started in
11 '96 with Chickasaw County. We never came to fruition until
12 2007. So they were long-term projects. Alcorn I started with
13 them in 2004. We worked with them all the time and we finally
14 got it into fruition.

15 So he made the demands of, *You can't run them. If I*
16 *don't get money, you ain't going to get no inmates. You can't*
17 *run them without inmates.* So that's how it started. And I
18 made the wrong decision. I should have just walked away.
19 That's easy for me to say walk away, but when you're out there
20 in a position I was in, I was born and raised -- these boards
21 of supervisors had committed to these multi-million dollar
22 contracts to build these facilities anticipating I was going to
23 be there to help them go through their construction phase,
24 through the startup, and help them get accredited through the
25 process to meet the accreditation.

1 All of the sudden, that burden of responsibility is
2 heavy. It's real heavy on you. And I thought it was through
3 with the deal once I heeded to his demand, then I thought we
4 were in good stead and everything was going fine.

5 In the presentencing report -- when we were on the
6 presentencing, you asked me if there was anyone available in
7 the office whenever the demands were made, and there were not.
8 And in the presentencing report, I submitted a response to a
9 question pertaining -- that that wasn't -- I wasn't the only
10 one who got hammered with the demand for money or no inmates.

11 THE COURT: Now, rest assured I read your letter.

12 THE DEFENDANT: All right.

13 THE COURT: You submitted that subsequently, and I
14 read it, but I'm going to let you go ahead and state it on the
15 record here. But I was letting you know that I did read it.

16 THE DEFENDANT: Yes, sir, thank you.

17 THE COURT: And you describe in detail what you
18 consider to be your response to the question I asked you at
19 sentencing whether at the time any demands of money were made
20 upon you whether anybody else was present. And you answered at
21 that time there was nobody present. You then submitted a
22 letter subsequent where you wanted to correct that. I have
23 read that. So go ahead and make your public statement.

24 THE DEFENDANT: There was no one present. But as we
25 were in the final stage of the construction in getting ready to

1 start populating the facilities, the first one was the
2 Chickasaw County Jail because we did a regional jail. They had
3 built a new county jail. I went to -- I went to all these
4 construction sites on a regular basis every week to make --
5 look for problems, to make sure everything was kosher and
6 address any problems that they may have.

7 On a trip up to Chickasaw County, the warden who I
8 quoted his name, Rand Huffman, called me in his office and
9 said, *Can you talk to Commissioner Epps?*

10 I said, *Well, I can talk to him. I don't know whether*
11 *he will listen to me or not, but what do you need?*

12 He said, *Well, the county has been informed if we*
13 *don't sign a telephone contract with the Sam Waggoner Group, we*
14 *ain't going to get no inmates.*

15 I said, *Well.*

16 He said, *The problem is we've had our telephones*
17 *carried by a company out of Alabama represented by a man by the*
18 *name of Graham Hopkins. And he says, The county has already*
19 *signed the contract with him. They've already -- the company*
20 *has paid the county \$25,000, and they've already used the*
21 *money, I think.*

22 I said, *I don't know. I can certainly try to talk to*
23 *him.*

24 So I came on like Wednesday that week, and Thursday I
25 went to see Commissioner Epps. And I said, *Now, people in --*

1 the people in Chickasaw County are all upset at you, mad at
2 you.

3 He said, Well, what about?

4 I said, All this deal about the telephones.

5 Well, they can get mad if they want to, whatever.

6 I said, Well, they've already signed a contract with
7 this company out of Alabama that had the telephone service in
8 the county jail before they ever built the regional, and they
9 wanted to continue that contract.

10 He said, Well, they ain't going to do it in my system.
11 They ain't going to get -- they ain't going to get inmates
12 unless they sign a contract with the Sam Waggoner Company. He
13 said, You can tell them -- and he stopped and said, No, better
14 than that, I'll tell them.

15 I said, That's fine, Commissioner. You need to tell
16 them because I'm not in the phone business. I don't want them
17 mad at me. They are already upset so you tell them.

18 Well, I left the office, and then I went to Chickasaw
19 County on the following Monday for the board meeting, and I
20 often made board meetings. As I walked in, the sheriff was
21 there, and, boy, the sheriff was hot.

22 And he called me and he said, I tell you one thing,
23 Epps can get in trouble doing what he's doing with the
24 telephones.

25 I said, Well, I know. And I told him that, but I

1 *can't do nothing with him. I've talked to him.*

2 So that was all that was said. The next thing I was
3 informed later on they went back and they canceled the contract
4 with the Graham Hopkins Group of Alabama and gave the contract
5 all to the Sam Waggoner group in Chickasaw County and they had
6 the jails. And it was all over the battle for the inmates.
7 That was the key to it, and that was the wedge that he started
8 out with, and that was the wedge that I got hammered with all
9 over.

10 Every place that I worked in regional jails were
11 subject to the population fluctuation. It moved all the time.
12 All you had to do to penalize everybody is drop them. And the
13 thing that made it hard for me to just walk away is you look at
14 the ACA test scores from the counties that I worked for.

15 Those audits come every three years, and every year I
16 was three years away from two or three audits, two years away
17 from two or three audits and we had two or three audits going
18 on that particular year. And it was hard to break off away
19 from those counties and just dump them and leave them.

20 That was the driving factor that kept me making bad
21 decisions, but I had competition in the marketplace that did
22 ACA stuff. They charged almost twice as much per month to do
23 the same stuff that I did and so it was just a pressure
24 situation. It was just a bad deal. I should have not given
25 any concern whatsoever to the counties, I guess. But I wanted

1 them to be successful, and I worked at it.

2 The funds that Epps got from me were dollars that I
3 earned, honest working hard, providing the services from every
4 contract. Nobody suffered. Nobody's fees changed as a result.
5 Those dollars I drew down personally out of the company, and I
6 paid him cash money, and I recorded and paid income taxes on
7 this income. And I took the hit. The counties didn't suffer.
8 None of the businesses I worked with suffered. I took the
9 loss.

10 And I performed for every county. You can go to any
11 county that I worked for. You can look at the test scores from
12 the audits. The drug and alcohol program was the one I ran for
13 the Department of Corrections. I made sure to do the very best
14 drug and alcohol program that the state ever had, and it was by
15 far better. It's better than anything they've got right now
16 because my focus was to make the inmates' life better. We
17 did -- not just these books here for you. We did them. We
18 just picked those up and brought them for you.

19 But we did them on graduating classes because we
20 wanted to make the drug and alcohol program an experience in
21 life. A lot these inmates had never graduated from anything.
22 They never had achieved anything. So we wanted to make a
23 lasting impression on them as we did the drug programs. We
24 brought in Fred Guenther who runs the residential therapeutic
25 center in Greenwood, one the better ones in the country and one

1 of the best. We went after the very best people to help us
2 make sure that those inmates got the very best experience in
3 the drug and alcohol program they could get.

4 I won't back up to nobody to the program we ran.
5 There's a lot of ways to cut corners in drug and alcohol. Our
6 goal was to have 25 hours a week for those inmates, 12 to 15
7 hours in classroom, another three to six hours in group
8 sessions and individual sessions. We bought at our expense
9 individual manuals, and she has them listed in that letter that
10 cost 35, \$40 for the package for the course of the classes.
11 And there are workbooks that they could go in and work, and we
12 used the higher academic achieving inmates to help the more
13 illiterate ones work through the graphics and the workbooks,
14 and they are built on a third-grade level. And this particular
15 program was designed by the Chance Company at the demand of the
16 U.S. Department of Justice to create a residence therapeutic
17 program that would move into the prison setting. That's what
18 it was designed for.

19 Now, very few people -- I don't know few people
20 anywhere that buy these programs because they are expensive.
21 And that's the reason why you won't ever have in program in the
22 Department of Corrections because it requires complicated staff
23 working, and it requires a lot of money. And every time you
24 cut funding for corrections, you're reducing the number of
25 guards, you reduce the programs because you've still got to

1 feed them, to keep the lights on.

2 So it sounds great that we're going to cut all this
3 money for corrections, but then we're going do recidivism?
4 That's not going to happen because recidivism is expensive and
5 it takes a lot of money. And most recidivism programs that
6 I've reviewed or worked on or saw are way underfunded. So we
7 try to make it a meaningful experience.

8 My sole objective was regardless of what my deal --
9 relationship with Epps was, as unpleasant as it was, I was
10 committed not to let one inmate or one program suffer as a
11 result of that bad relationship, and I did not. And for that
12 I'm truly honored.

13 THE COURT: All right. Mr. Hollomon.

14 MR. HOLLOMON: Your Honor, I would state to the court
15 I think anyone would concede that Irb Benjamin lived an
16 exemplary life up until 2011 when he ran into Chris Epps. He
17 had been in the corrections business for some period of time
18 and had worked at least three other corrections commissioners
19 without bribes or without this kind of shakedown. And he
20 performed honorably and he developed a good reputation with
21 corrections and for corrections in the state of Mississippi and
22 among the counties.

23 He grew up one of 13 children. His dad sharecropped.
24 He grew up. Made his first crop when he was 13 years of age.
25 He could calculate how much fertilizer was needed for the

1 ground to fertilize, how much seed to plant. And he grew up
2 hard, working hard. And accomplishment meant something.
3 Education meant something to Irb and his family.

4 And he later served in the state house of
5 representatives for a term and later in the state senate and
6 accomplished, I submit, a lot of good. And Irb doesn't want me
7 to -- Irb is a very humble person, Your Honor. What's in those
8 letters is true. That's the person I know. He does not like
9 to blow his own horn. But while he was in the legislature, in
10 the senate he was one of the original legislative planners for
11 the 1987 highway program which created over 1,000 miles of
12 four-lane highways all over the state. He was instrumental in
13 placing all public school teachers in a statewide health
14 insurance plan when he chaired the state education committee.

15 While chairman of that committee, he was successful in
16 passing the first equity funding package for public education
17 funding, and this ensured parity funding in all Mississippi
18 school districts. While he was a member of the house of
19 representatives insurance committee, he was instrumental in the
20 passage of legislation which required insurance companies to
21 offer uninsured motorist coverage on automobile insurance
22 policies sold to the citizens of the state of Mississippi. And
23 he was instrumental in creating a special revolving loan fund
24 to help fund the new agricultural ventures in the state of
25 Mississippi, and this legislation opened the door for the

1 poultry industry in Mississippi to thrive and flourish, which
2 it's doing today.

3 So he, Judge, I think led a life to be proud and a
4 life of accomplishment. He raised an extended family. He's a
5 God-fearing man. He's a Christian and religious man who relies
6 deeply on his faith. And without reservation, Your Honor, I
7 submit to the court he is a good man. I think he did something
8 here that was wrong. He's admitted to that, and he's suffered
9 for it greatly.

10 It's painful when Irb comes to my office because he
11 always, always talks for a period of time about how much he
12 regrets what's happened and what he's done. I know his words
13 to this court a few minutes ago were sincere and genuine. I
14 know the pain he's experienced because of this. And for all
15 those reasons, Your Honor, I ask the court to have leniency on
16 him and to fashion a sentence which takes into consideration
17 those factors that deserve credit and for which he's lived his
18 life. Thank you, Your Honor.

19 THE COURT: All right. Thank you. Now, why don't
20 y'all have a seat for a moment because I want to ask the
21 prosecution some questions. Mr. LaMarca, did this defendant
22 cooperate with the prosecution?

23 MR. LaMARCA: Yes, Your Honor.

24 THE COURT: And did he do so from the first?

25 MR. LaMARCA: Yes, Your Honor.

1 THE COURT: And during your prosecution of him, did
2 you run into any difficulties whereby he may have been
3 stonewalling the investigation?

4 MR. LaMARCA: No, Your Honor.

5 THE COURT: And when he was confronted, was he totally
6 honest and informative about his criminal dealings?

7 MR. LaMARCA: Initially like with most, the very first
8 instance was a minimization of it, but then after being
9 confronted all during the same meeting, he did fulfill his duty
10 of cooperating at that very same meeting.

11 THE COURT: Did any information he furnished lead to
12 the prosecution or investigation of any others?

13 MR. LaMARCA: Yes, Your Honor.

14 THE COURT: And did those investigations culminate in
15 an indictment?

16 MR. LaMARCA: They did.

17 THE COURT: Is the government saying that the
18 information that he provided may be the subject of some
19 additional prosecution?

20 MR. LaMARCA: Yes, Your Honor.

21 THE COURT: Has the government made any arrangement or
22 deal with this defendant to submit a later request for
23 reduction in case he provides additional information or if he's
24 required to testify?

25 MR. LaMARCA: Your Honor, we have broached that

1 subject with the defense. Of course, we've made no promises
2 but we've intimated to the defense that that is a likely
3 scenario.

4 THE COURT: So then if he cooperates further -- excuse
5 me. Does he have to cooperate further to obtain this
6 recommendation from the government?

7 MR. LaMARCA: Yes, sir, he does.

8 THE COURT: And I'm not trying to get into any of the
9 depths of this matter, but would that cooperation mean possible
10 testimony or will you still have to debrief him further on
11 matters concerning these other situations?

12 MR. LaMARCA: Testimony.

13 THE COURT: Testimony. And at present, there have not
14 been indictments on those particular persons?

15 MR. LaMARCA: That is correct.

16 THE COURT: And do you have a timetable as to when you
17 might expect further indictments to be returned, if they are to
18 be returned?

19 MR. LaMARCA: I would have liked to have seen them two
20 months ago. I would say these are matters that are handled in
21 the Southern District of Mississippi, likely on or Gulf Coast
22 office and would -- it would be hard to say without speaking to
23 the responsible AUSA for that matter, Your Honor.

24 THE COURT: Okay. I don't need you to do that. I'm
25 just trying to get some time frames. So at present you are

1 uncertain as to how far in the future these matters will be
2 resolved, that is, whether there will be extra indictments,
3 whether those indictments will need the testimony of this
4 defendant and whether the prosecution thereafter will be in a
5 position to make a recommendation for a reduction of sentence.

6 MR. HOLLOMON: Correct, Your Honor. I think it's just
7 a matter of time.

8 THE COURT: Okay. Now, with regard to the defendants
9 who have already pleaded guilty, and those who have been
10 sentenced by this court, did this defendant provide any
11 assistance with regard to their circumstances?

12 MR. LaMARCA: Of course, with regard to Mr. Epps who
13 has yet to be sentenced, he has provided additional information
14 that would or has benefited the government with regard to
15 Mr. Epps. The information with regard to holding inmates that
16 the court just elicited just a minute ago is a matter that will
17 impact we believe Mr. Epps' sentencing. I need to confer with
18 the agent one second to answer any further --

19 THE COURT: All right. Go ahead.

20 (Short Pause)

21 MR. LaMARCA: Your Honor, Mr. Benjamin through
22 independent meetings with agents and the government
23 corroborated the -- what the court has heard with regard to
24 Mr. Waggoner -- what the court has heard with regard to the
25 general way that kickbacks were played to Mr. Epps. The

1 individuals that the court has sentenced to this point as the
2 court's aware have also provided the same -- the information
3 that gave the government the scheme that was perpetrated here
4 by Mr. Epps and his coconspirators.

5 THE COURT: So then other than Mr. Epps whom the court
6 has yet to sentence, and with regard to all of the other
7 defendants who have pleaded guilty and have been sentenced or
8 are awaiting sentence, then this is all that he has contributed
9 with regard to those defendants?

10 MR. LaMARCA: That's true, Your Honor.

11 THE COURT: And the government has said they made a
12 recommendation to the lower 25 percent.

13 MR. LaMARCA: Yes, sir.

14 THE COURT: Do oppose the motion for reduction?

15 MR. LaMARCA: Your Honor, we will stand by our
16 recommendation. We will with regard to any reduction or
17 variance leave that to the discretion of the court. We are
18 going to abide by our recommendation contained within the plea
19 supplement.

20 THE COURT: All right. Thank you very much.

21 MR. LaMARCA: Yes, sir.

22 THE COURT: Will the defendant and counsel approach
23 the podium. I'm now ready to sentence the defendant. I've
24 considered the advisory guidelines computations and the
25 sentencing factors under 18 USC Section 3553(a). The court has

1 determined to sentence the defendant under the guidelines, not
2 under the statute, which the court has discretion to do. The
3 court moves to the statute when the court feels sometimes that
4 a sentence in the higher end is more appropriate. At other
5 times, the court has moved to the statute when it feels that a
6 sentence under the statute is appropriate because the defendant
7 is entitled to greater consideration for some special factor.

8 I have looked through the presentence investigation
9 report and I do not see, Mr. Benjamin, a special factor. The
10 guidelines take into account age, the guidelines take into
11 account health, and the guidelines take into account with
12 regard to a downward departure what a person has accumulated by
13 way of good guy references and accomplishments. But the court
14 can consider that the in the guideline range itself.

15 So the guideline range here has been reported, all
16 agree here, and I have considered all of the contributions
17 you've made before you found yourself in this circumstance. I
18 see the many respected jobs that you worked. I see the many
19 lives that you have touched by what you have done in the past.
20 I see how you have been a family man throughout this ordeal and
21 the court is impressed with all that up until the court gets to
22 this particular matter.

23 So the court then has this guideline range to look at,
24 and the court doesn't see at this juncture where the court can
25 downward depart because you only base your downward departure

1 motion on your age and on your health. Both those have been
2 considered in the formation of the guideline computations. So
3 I didn't have anything else for a downward departure or
4 variance.

5 But the government tells me that you have been
6 cooperative, and the court recognizes that that's a matter that
7 could come back before the court. But right now the court has
8 to sentence you under what the presentence investigation report
9 contains and what has been submitted by you and your attorney.

10 So as I stated, I will take into account all the good
11 things that you have done. And because of that, then I feel
12 you ought to be at the low end of the guidelines. That will
13 put you at 70 months imprisonment as to Count 2, which is the
14 lowest of the guidelines that you will be in the United States
15 Bureau of Prisons' custody and then pay a fine of \$100,000 and
16 be on two years supervised release subject to the standard and
17 mandatory conditions as listed on the judgment order in
18 addition to the following special conditions, that is, that you
19 should not incur new credit charges or open additional lines of
20 credit without the approval of the probation officer until such
21 time as the fine is paid in full. You shall provide the
22 probation office with access to any requested financial
23 information, and you have to pay the special assessment fee of
24 \$100.

25 Now, in imposing this sentence, the court recognizes

1 that still to come possibly is the government's recommendation
2 that you receive some credit for your assistance and the court,
3 if such a motion is filed, then the court will look at that
4 motion and determine at that time how the court should approach
5 that motion and adjust this system -- this sentence.

6 So the prosecution tells me that that matter might not
7 come up for a period of months. But when it comes up and if
8 you have satisfied the prosecution of your contribution, then
9 the pros -- the prosecution will make a motion to the court and
10 I will study that motion and determine then whether I should
11 reduce your sentence based on that cooperation. Do you
12 understand that?

13 THE DEFENDANT: Yes, sir, Your Honor.

14 THE COURT: Now, you have to pay the special
15 assessment fee of \$100, what I've stated already. So then do
16 you understand what the sentence is?

17 THE DEFENDANT: Yes, sir. 70 months.

18 THE COURT: Seventy months and two years supervised
19 release, a fine of \$100,000.

20 Now, I have looked at your financial records and you
21 are capable of paying that amount of money because I've looked
22 at what your net worth is. So the government recommended
23 25 percent in the lower category. I followed that
24 recommendation and sentenced you in the lower 25 percent. But
25 in addition, I've sentenced you at the very lowest months of

1 the presentence investigation report. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I told you I'd be waiting to see what the
4 government has to say with regard to your cooperation in these
5 other matters that the government says that it is looking to to
6 see what your support will be on those matters. And if the
7 government files the motion, then asking that the court
8 consider either downward departure or variance, the court will
9 consider that and make a determination then. Do you understand
10 that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, Mr. Hollomon, do you have any
13 questions about the sentence?

14 MR. HOLLOMON: No, Your Honor.

15 THE COURT: Let me turn back to the prosecution. Mr.
16 LaMarca, in view of this other circumstance, are you asking
17 that this defendant be incarcerated any time soon, or do you
18 want him still available to assist the prosecution?

19 MR. LaMARCA: Your Honor, we would not object to him
20 self-reporting. At the time he is needed, we will make
21 arrangements to have him here if necessary. And we do have a
22 couple of other matters I'd like to bring to the court's
23 attention as well.

24 THE COURT: You mentioned this matter of forfeiture,
25 didn't you?

1 MR. LaMARCA: I did.

2 THE COURT: Why don't you discuss it now.

3 MR. LaMARCA: Thank you, Your Honor. We have an
4 agreed preliminary order of forfeiture that I am would like to
5 present to the court.

6 THE COURT: Okay.

7 (Document Tendered to the Court)

8 THE COURT: I have this agreed preliminary order of
9 forfeiture. It is in two pages. On the signature line it's
10 signed by Mr. Darren LaMarca. Then on the defendant line it's
11 signed by the defendant, Mr. Irb Benjamin. And then Mr. Joe
12 Hollomon signed as the attorney for the defendant. I need to
13 address the defendant. Mr. Benjamin, did you sign this?

14 THE DEFENDANT: Yes, sir, Your Honor, I did.

15 THE COURT: And before you signed it, did you read it?

16 THE DEFENDANT: I read the total. I didn't read the
17 whole thing.

18 THE COURT: You want to read the whole thing?

19 THE DEFENDANT: No, sir. I'm fine.

20 THE COURT: No, I need you to the read it so that the
21 record will reflect that you read it. Mr. Hollomon, why don't
22 you come get it and give your client an opportunity to read the
23 whole thing.

24 MR. HOLLOMON: Yes, Your Honor.

25 THE COURT: You all can sit down and read it.

1 THE DEFENDANT: Yes, sir, please.

2 (Short Pause)

3 THE DEFENDANT: I have completed reading it, Your
4 Honor. I have completed the reading of the agreement.

5 THE COURT: All right. What about May 16th,
6 Mr. Hollomon, for your client to voluntarily report?

7 MR. HOLLOMON: May 16th, Your Honor?

8 THE COURT: 2017.

9 MR. HOLLOMON: Yes, sir.

10 THE COURT: At 9:00.

11 MR. HOLLOMON: Yes, sir.

12 THE COURT: Mr. Benjamin, do you understand that?

13 THE DEFENDANT: Reporting date?

14 THE COURT: Yes, May 16.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: 9:00 a.m. At the designated facility.
17 Probation?

18 PROBATION OFFICER: Yes, Your Honor, just briefly.
19 With regard to the fine, it is probation's recommendation that
20 the interest requirement be waived and also given the
21 defendant's financial condition that the fine be paid in full
22 within 180 days from today's date.

23 THE COURT: Mr. LaMarca?

24 MR. LaMARCA: Your Honor, we would ask that the fine
25 and forfeiture be paid by a certain date, and we ask that that

1 date be prior to May 16th.

2 THE COURT: The agreed preliminary order of forfeiture
3 that the parties have submitted says that the defendant agrees
4 to a money judgment of \$260,782. And as I stated before, the
5 parties have agreed to this. Now, Mr. LaMarca, you're asking
6 that this amount be paid when?

7 MR. LaMARCA: Prior to the date that he should report.

8 THE COURT: Mr. Hollomon, your response?

9 MR. HOLLOMON: Your Honor, we would ask the court to
10 allow the additional time as requested by probation to give us
11 180 days to get that paid.

12 THE COURT: And is there any reason why you need the
13 whole 180 days?

14 MR. HOLLOMON: Judge, that is a substantial sum of
15 money, including the fine. And know it's going to take my
16 client some management and time to get that worked out.

17 THE COURT: I believe I saw some items in the
18 financial report which were matters that could be cashed out,
19 though. Do you have that presentence investigation report in
20 front of you?

21 MR. HOLLOMON: I do, Your Honor. Your Honor, what my
22 client needs to do is he will have to liquidate some assets in
23 the market and that, of course, may take a little time. It may
24 take -- I'm sure he'll comply with it as soon as possible. But
25 we would like to have the additional time in the event it takes

1 that time to market these securities and assets.

2 THE COURT: Okay. Mr. Hollomon, I'm looking at page
3 24 of the presentence investigation report.

4 MR. HOLLOMON: Yes, sir.

5 THE COURT: And I'm looking at a personal savings
6 account of 118,000 plus. I'm also looking at a personal saving
7 account of 8,000 plus. I see an Edward Jones account of
8 224,000 plus. And I see another --

9 MR. HOLLOMON: Judge, I'm sorry. I don't mean to
10 interrupt, Your Honor. My client tells me that account is, in
11 fact, securities that would have to be marketed.

12 THE COURT: Okay. But the next one is too, individual
13 mutual funds --

14 MR. HOLLOMON: Yes, sir.

15 THE COURT: -- of 314,000 plus, almost 315,000. And
16 then some master funds that have a total of 88,000 plus
17 because --

18 MR. HOLLOMON: Those are securities also, Your Honor,
19 my client tells me.

20 THE COURT: This presentence investigation report
21 shows that your client has a total asset base of a little more
22 than 1.5 million.

23 MR. HOLLOMON: He and his wife, Your Honor. And, of
24 course, some of those assets are fairly illiquid.

25 THE COURT: Fairly what?

1 MR. HOLLOMON: Illiquid.

2 THE COURT: Okay. Well, there's a house here, the
3 residence in which he lives, the vehicle. There's some land in
4 Alcorn County and jewelry, et cetera. So there's some other
5 matters here, right, that it would have to be appraised. But
6 he wouldn't necessarily have to do that since his securities
7 should take care of these obligations here. Now, but you're
8 asking for 180 days in order to sell these matters off. That's
9 a long time to have to them sell off, 180 days. Now, I
10 recognize you don't want to have to do it overnight and have
11 some sort of fire sale on those assets.

12 MR. HOLLOMON: Yes, sir.

13 THE COURT: But what about three months instead of six
14 months?

15 MR. HOLLOMON: That's fine, Your Honor. We'll -- if
16 the court will allow us that time, we'll work with that.

17 THE COURT: All right. I'll give you 90 days then --

18 MR. HOLLOMON: Thank you, Your Honor.

19 THE COURT: -- to satisfy these matters because, as I
20 said, I recognize that these securities have to be liquidated
21 and you want to try and get top dollar --

22 MR. HOLLOMON: Yes, sir.

23 THE COURT: -- for those. And so I'll give you 90
24 days for both the restitution -- for the forfeiture, I mean,
25 and the fine. Ninety days.

1 Now, Mr. Benjamin, I have given you the time you are
2 to report. You understand if you do not report on that date
3 that you'll be in violation of some other criminal statute.

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: Are you telling me you're going to report
6 on the date that I provided to you?

7 THE DEFENDANT: Yes, sir, I will report.

8 THE COURT: And on this agreed preliminary order of
9 forfeiture that you signed, your lawyer signed, Mr. LaMarca
10 signed, I have now signed this third day of March, 2017, and
11 I'll have this filed. So, Carmen, now to the prosecution, is
12 there anything further?

13 MR. LaMARCA: Your Honor, the government moves to
14 dismiss the remaining counts of the indictment. That would be
15 count 1 and 3, and we'll supply the court with an order.

16 THE COURT: All right. Thank you. Mr. Hollomon, I
17 assume there's no objection?

18 MR. HOLLOMON: No objection, your Honor. And we would
19 move, Your Honor, to allow my client to self-report and to
20 remain free on the same bond until that time.

21 THE COURT: He may do so unless the government
22 persuades me otherwise, Mr. LaMarca.

23 MR. LaMARCA: No objection to that, Your Honor.

24 THE COURT: That he be allowed to remain free until he
25 has to report.

1 MR. HOLLOMON: Thank you, Your Honor. We'd also ask
2 the court to recommend designation to the federal facility in
3 Montgomery, Alabama.

4 THE COURT: All right. And the basis?

5 MR. HOLLOMON: Judge, that's just close to my client
6 and family and that was his desire.

7 THE COURT: Mr. LaMarca?

8 MR. LaMARCA: If he otherwise fits the classification,
9 no objection, Your Honor.

10 THE COURT: Then I concur. If he fits the
11 classification, then I make the recommendation.

12 MR. HOLLOMON: Thank you.

13 THE COURT: Anything further, Mr. Hollomon?

14 MR. HOLLOMON: No, Your Honor.

15 THE COURT: Mr. LaMarca?

16 MR. LaMARCA: No, Your Honor.

17 THE COURT: Ms. Harrell?

18 PROBATION OFFICER: No, Your Honor.

19 THE COURT: Good luck, Mr. Benjamin. I probably will
20 see you again when they make a motion, should they make one.

21 THE DEFENDANT: Thank you, Your Honor.

22 THE COURT: You all can be excused. Thank you.

23 (Hearing Concluded)
24
25

CERTIFICATE OF REPORTER

I, CHERIE GALLASPY BOND, Official Court Reporter, United States District Court, Southern District of Mississippi, do hereby certify that the above and foregoing pages contain a full, true and correct transcript of the proceedings had in the aforementioned case at the time and place indicated, which proceedings were recorded by me to the best of my skill and ability.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

This the 8th day of May, 2017.

s/ *Cherie G. Bond*
Cherie G. Bond
Court Reporter